

110TH CONGRESS
2D SESSION

H. R. 6794

To direct the Election Assistance Commission to reimburse jurisdictions for the costs incurred in conducting manual audits of the results of the general elections for Federal office to be held in November 2008.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 2008

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

A BILL

To direct the Election Assistance Commission to reimburse jurisdictions for the costs incurred in conducting manual audits of the results of the general elections for Federal office to be held in November 2008.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Emergency Election
5 Audit Act of 2008”.

6 **SEC. 2. PAYMENTS FOR CONDUCTING MANUAL AUDITS OF**
7 **RESULTS OF 2008 GENERAL ELECTIONS.**

8 (a) PAYMENTS.—

1 (1) ELIGIBILITY FOR PAYMENTS.—If a State
2 conducts manual audits of the results of any of the
3 regularly scheduled general elections for Federal of-
4 fice in November 2008 (and, at the option of the
5 State, conducts audits of elections for State and
6 local office held at the same time as such election)
7 in accordance with the requirements of this section,
8 the Election Assistance Commission (hereafter in
9 this Act referred to as the “Commission”) shall
10 make a payment to the State in an amount equal to
11 the documented reasonable costs incurred by the
12 State in conducting the audits.

13 (2) CERTIFICATION OF COMPLIANCE AND
14 COSTS.—

15 (A) CERTIFICATION REQUIRED.—In order
16 to receive a payment under this section, a State
17 shall submit to the Commission, in such form
18 as the Commission may require, a statement
19 containing—

20 (i) a certification that the State con-
21 ducted the audits in accordance with all of
22 the requirements of this section;
23 (ii) a statement of the reasonable
24 costs incurred in conducting the audits;
25 and

1 (iii) such other information and assur-
2 ances as the Commission may require.

3 (B) AMOUNT OF PAYMENT.—The amount
4 of a payment made to a State under this sec-
5 tion shall be equal to the reasonable costs in-
6 curred in conducting the audits.

7 (C) DETERMINATION OF REASONABLENESS
8 OF COSTS.—The determinations under this
9 paragraph of whether costs incurred by a State
10 are reasonable shall be made by the Commis-
11 sion.

12 (3) TIMING OF PAYMENTS.—The Commission
13 shall make the payment required under this section
14 to a State not later than 30 days after receiving the
15 statement submitted by the State under paragraph
16 (2).

17 (4) MANDATORY IMMEDIATE REIMBURSEMENT
18 OF COUNTIES AND OTHER JURISDICTIONS.—If a
19 county or other jurisdiction responsible for the ad-
20 ministration of an election in a State incurs costs as
21 the result of the State conducting an audit of the
22 election in accordance with this section, the State
23 shall reimburse the county or jurisdiction for such
24 costs immediately upon receiving the payment from
25 the Commission under paragraph (3).

1 (5) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to the Com-
3 mission such sums as may be necessary for pay-
4 ments under this section. Any amounts appropriated
5 pursuant to the authorization under this subsection
6 shall remain available until expended.

7 (b) AUDIT REQUIREMENTS.—In order to receive a
8 payment under this section for conducting an audit, the
9 State shall meet the following minimum requirements:

10 (1) Not later than 30 days before the date of
11 the regularly scheduled general election for Federal
12 office in November 2008, the State shall establish
13 and publish guidelines, standards, and procedures to
14 be used in conducting audits in accordance with this
15 section.

16 (2) The State shall select an appropriate entity
17 to oversee the administration of the audit, in accord-
18 ance with such criteria as the State considers appro-
19 priate consistent with the requirements of this sec-
20 tion, except that the entity must meet a general
21 standard of independence as defined by the State.

22 (3) The State shall determine whether the units
23 in which the audit will be conducted will be precincts
24 or some alternative auditing unit, and shall apply

1 that determination in a uniform manner for all au-
2 dits conducted in accordance with this section.

3 (4) The State shall select the precincts or alter-
4 native auditing units in which audits are conducted
5 in accordance with this section in a random manner
6 following the election after the final unofficial vote
7 count (as defined by the State) has been announced,
8 such that each precinct or alternative auditing unit
9 in which the election was held has an equal chance
10 of being selected, subject to paragraph (9), except
11 that the State shall ensure that at least one precinct
12 or alternative auditing unit is selected in each coun-
13 ty in which the election is held.

14 (5) The audit shall be conducted in not less
15 than 2 percent of the precincts or alternative audit-
16 ing units in the State (in the case of a general elec-
17 tion for the office of Senator) or the Congressional
18 district involved (in the case of an election for the
19 office of Representative in, or Delegate or Resident
20 Commissioner to, the Congress).

21 (6) The State shall determine the stage of the
22 tabulation process at which the audit will be con-
23 ducted, and shall apply that determination in a uni-
24 form manner for all audits conducted in accordance
25 with this section, except that the audit shall com-

1 mence within 48 hours after the State or jurisdiction
2 involved announces the final unofficial vote count (as
3 defined by the State) in each precinct in which votes
4 are cast in the election which is the subject of the
5 audit.

6 (7) With respect to each precinct or alternative
7 audit unit audited, the State shall ensure that a
8 voter verified paper ballot or paper ballot printout
9 verifiable by the voter at the time the vote is cast
10 is available for every vote cast in the precinct or al-
11 ternative audit unit, and that the tally produced by
12 counting all of those paper ballots or paper ballot
13 printouts by hand is compared with the cor-
14 responding final unofficial vote count (as defined by
15 the State) announced with respect to that precinct
16 or audit unit in the election.

17 (8) Within each precinct or alternative audit
18 unit, the audit shall include all ballots cast by all in-
19 dividuals who voted in or who are under the jurisdic-
20 tion of the precinct or alternative audit unit with re-
21 spect to the election, including absentee ballots (sub-
22 ject to paragraph (9)), early ballots, emergency bal-
23 lots, and provisional ballots, without regard to the
24 time, place, or manner in which the ballots were
25 cast.

1 (9) If a State establishes a separate precinct for
2 purposes of counting the absentee ballots cast in the
3 election and treats all absentee ballots as having
4 been cast in that precinct, and if the state does not
5 make absentee ballots sortable by precinct and in-
6 clude those ballots in the hand count, the State may
7 divide absentee ballots into audit units approxi-
8 mately equal in size to the average precinct in the
9 State in terms of the number of ballots cast, and
10 shall randomly select and include at least 2 percent
11 of those audit units in the audit. Any audit carried
12 out with respect to such an audit unit shall meet the
13 completeness requirement and the other standards
14 set forth under paragraph (7) and applicable to au-
15 dits carried out with respect to other precincts and
16 alternative audit units, including the requirement
17 that all paper ballots be counted by hand.

18 (10) The audit shall be conducted in a public
19 and transparent manner, such that members of the
20 public are able to observe the entire process.

21 (c) COLLECTION AND SUBMISSION OF AUDIT RE-
22 SULTS; PUBLICATION.—

23 (1) STATE SUBMISSION OF REPORT.—In order
24 to receive a payment under this section, a State
25 shall submit to the Commission a report, in such

1 form as the Commission may require, on the results
2 of each audit conducted under this section.

3 (2) COMMISSION ACTION.—The Commission
4 may request additional information from a State
5 based on the report submitted under paragraph (1).

6 (3) PUBLICATION.—The Commission shall pub-
7 lish each report submitted under paragraph (1) upon
8 receipt.

9 (d) DELAY IN CERTIFICATION OF RESULTS BY
10 STATE.—No State may certify the results of any election
11 which is subject to an audit under this section prior to
12 completing the audit, resolving discrepancies discovered in
13 the audit, and submitting the report required under sub-
14 section (c).

15 (e) STATE DEFINED.—In this Act, the term “State”
16 includes the District of Columbia, the Commonwealth of
17 Puerto Rico, Guam, American Samoa, and the United
18 States Virgin Islands.

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